

## Request for information relating to Whānau Ora

<b>Legislation</b>	Official Information Act 1982, ss 9(2)(ba)(ii), 9(2)(f)(iv), 9(2)(g)(i)
<b>Agency</b>	Ministers (Prime Minister, Minister of Finance, Minister for the Community and Voluntary Sector)
<b>Ombudsman</b>	Beverley Wakem
<b>Case number(s)</b>	285265
<b>Date</b>	June 2010

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*Disclosure while policy advice still under consideration by Ministers would prejudice ongoing decision making process—disclosure of inter-agency consultation would inhibit future expression of free and frank opinions by officials*

A requester sought information relating to Whānau Ora, and complained when Ministers refused to supply it on a number of grounds. The Chief Ombudsman concluded there was good reason to withhold:

- advice to Ministers under section 9(2)(f)(iv) of the OIA;
- the draft Whānau Ora Taskforce report under section 9(2)(ba)(ii) of the OIA; and
- free and frank discussions between Ministers and officials under section 9(2)(g)(i) of the OIA.

### Advice to Ministers on Whānau Ora

The Chief Ombudsman noted that Whānau Ora was a significant policy development process, involving a number of Ministers and a range of different government agencies. The policy development process involved a number of different streams of advice from government agencies regarding the finer details and shape of the policy. When the request was refused, decisions regarding certain aspects of the policy had been made but a number of further decisions regarding fairly fundamental aspects of the final shape of the policy still had to be

made.

Given the scale of the policy development process; the range of policy options to be considered; and the fact that decisions regarding certain elements of the policy had not been made, the Chief Ombudsman was satisfied that it was necessary to withhold the information at issue in order to allow undisturbed ministerial consideration of the different options available before decisions were made on the final shape of the policy. She was not persuaded that the public interest considerations favouring the disclosure of this information outweighed the interests in favour of withholding it. In her opinion, disclosure of the information, in a piecemeal fashion, prior to decisions being taken on the final shape of the policy, would not have served to promote the overall public interest.

The Chief Ombudsman noted that the Taskforce's final report had since been disclosed and said this seemed to substantially address the public interest by illustrating the type of proposals and recommendations that were under consideration.

## Draft Whānau Ora Taskforce report

The draft Whānau Ora taskforce report was also withheld. However, the Taskforce comprised external experts, and the report was therefore not advice '*tendered by Ministers or officials*'. On this basis, section 9(2)(f)(iv) could not apply. However, the Chief Ombudsman considered that section 9(2)(ba)(ii) of the OIA—which applies where disclosure of confidential information would damage the public interest—applied in the alternative.

The draft report was provided to the Minister by the Taskforce in confidence. Given the scale of the Whānau Ora policy development process and the range of advice and recommendations offered by the Taskforce, it was in the wider public interest for Ministers to have a period to consider that report, in confidence, before it was disclosed publicly. Premature release of the report, or draft versions of the report, would have prejudiced the ability of Ministers to give undisturbed consideration to the advice before them and to make whatever decisions they considered necessary. The Chief Ombudsman was of the opinion that disclosure of the draft report would have been likely to damage the public interest.

## Discussion between officials and with Ministers

Some of the information at issue comprised free and frank discussions between officials and with Ministers about certain issues relating to the policy development process. The Chief Ombudsman was satisfied that it was necessary to withhold this information to protect the ability of officials to engage in this type of debate as part of the process of developing robust policy. It seemed to her that, if these particular communications were to be released, officials would indeed feel inhibited in the future from discussing each other's work or positions, or critiquing the views advanced by others, in a free and frank way; something which is crucial to the quality and robustness of the final shape of the policy in question.

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