Ombudsman
Fairness for all

Case note

# Request for internal complaint assessment memorandum

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| **Legislation** | Official Information Act 1982, s 9(2)(g)(i) |
| **Agency** | Health and Disability Commissioner |
| **Ombudsman** | David McGee |
| **Case number(s)** | 306037 |
| **Date** | October 2011 |

*Disclosure of preliminary complaint assessment memo would make complaints assessment staff reluctant in future to fully express their views in writing—s 9(2)(g)(i) provides good reason to withhold*

The Health and Disability Commissioner (HDC) refused a request for an internal memorandum from a complainant's HDC complaint file, and the requester complained to the Ombudsman.

The memo represented a preliminary stage in the collaborative assessment of the complaint. It was written to assist the Commissioner to decide what action to take on the complaint. The memo was the means by which the complaints assessor conveyed her interpretation of the facts and her opinion about these facts in light of the statutory role of the Commissioner and the legislative framework of the HDC. While the tone of the memo was not informal, it conveyed open and straightforward opinions about the doctor's care. These opinions were not the considered view of the Commissioner but represented an early sharing of ideas subject to further scrutiny. It seemed likely that the complaints assessor would have had an expectation that her input into the decision making processes at that stage would have been confidential.

The Ombudsman considered that disclosure of the memo would make complaints assessment staff reluctant in future to fully express their views in writing. The Ombudsman formed the opinion that releasing the memo would constrain the ability of the HDC to engage in the early sharing of ideas which would prejudice the effective conduct of public affairs. The Ombudsman did not consider any public interest in release existed which outweighed the need to withhold the information.

*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.*