

Request for operational protocols and governance arrangements for the retention of new born blood spot cards ('Guthrie' cards)

Legislation	Official Information Act 1982, s 18(d)
Agency	Ministry of Health
Ombudsman	David McGee
Case number(s)	307769
Date	May 2012

Request for protocols for Guthrie cards—requester advised protocols would be reported back to government by end of April and released in due course—some documents subsequently released but not the documents requested—it must be the actual information requested that is to be made publicly available, not other information, even if it is related, or the final version of the information—s 18(d) not applicable

On 31 March 2011, a media requester asked the Ministry of Health a number of questions about the retention of Guthrie cards. The Ministry advised that it was *'developing the operational protocols and governance arrangements for the Guthrie cards'*.

The requester then sought *'a copy of the most recent documents on this'*. The Ministry replied, also on 31 March 2011, that *'the protocols will be reported back to the government by the end of April, and will be released in due course'*.

The requester sought the OIA grounds for refusing her request. The Ministry responded that it would now treat her correspondence as an OIA request, and she would be advised of the Ministry's decision on that request in due course.

The requester complained to the Ombudsman about the Ministry's refusal. The Minister of Health subsequently confirmed the decision to withhold the requested information under sections 9(2)(ba)(i), 9(2)(f)(iv) and 9(2)(g)(i) of the OIA.

In addition to considering these substantive withholding grounds, the Ombudsman noted that the Ministry's response that *'the protocols ... will be released in due course'* appeared to be a

refusal to supply the requested documents on the basis that they would soon be publicly available.

The requested documents comprised a draft policy framework that had been the subject of targeted public consultation, and submissions received in response to that draft policy framework. The Ombudsman noted that in the intervening period some final policy documents and a summary of the submissions had been published. However, this was not the information requested.

There never appeared to be any intention to publish the requested documents, and while they had since been disclosed to the requester, they had still not been made publicly available. The Ombudsman commented:

'Will soon be publicly available' seems to me to import an element of assurance that the information requested will indeed be released in the near future. This implies that, at the time of the response, a decision has been made to make the information requested publicly available. This does not appear to have been the case. This is confirmed by the fact that in the intervening months the information requested has not become publicly available. I consider that section 18(d) was not an applicable reason to refuse the request.

This case illustrates that it must be the actual information requested that is to be made publicly available, not other information, even if it is related, or the final version of the information.

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