

Request for information relating to proposed parking changes in a street

Legislation	Local Government Official Information and Meetings Act 1987, s 17(h)
Agency	Council Controlled Organisation
Ombudsman	Professor Ron Paterson
Case number(s)	362529
Date	March 2016

Volume of correspondence and requests created challenges but requester had a legitimate interest in obtaining information to help them understand the intended changes and make submissions—no evidence the request was made for irrational, mischievous or malicious reasons—no evidence that the agency had helped the requester to refine the request, reduce the scope, or clarify the specific information sought—request not frivolous or vexatious

A residents' group complained to the chief executive of a local authority about the public consultation process it was carrying out in relation to proposed parking changes in a particular street. In this context, it also made a request for official information about the proposed changes. The request was stated to be made with urgency, to enable the group to prepare its submissions on the proposal. At the same time the group noted that it was considering referring its wider concerns about the consultation process to the Ombudsman for consideration under the Ombudsmen Act. In the absence of a response from the local authority, it did in fact do so.

The Chief Ombudsman investigated the group's wider concerns, and formed the provisional opinion that the local authority should respond to its complaint about the consultation process, as well as its request for official information. The local authority accepted this suggestion, but decided to refuse the request for official information as vexatious. In so doing, it noted that the request had been made over a year earlier for the purpose of preparing a complaint to the Ombudsman. As that purpose had now been fulfilled, *'the request [was] no longer made in good faith and may be considered instead an abuse of official information rights'*.

The Chief Ombudsman noted that the purpose of the request was to enable the group to prepare its submissions on the proposal, not to make a complaint to the Ombudsman. She was concerned that a request might be considered vexatious simply because a requester had complained to the Ombudsman, or indicated their intention to do so: *'any requester has the right to make a complaint to the Ombudsman, and no negative repercussions should arise as a result of this'*.

The Chief Ombudsman acknowledged the volume of requests and correspondence from the group created challenges for staff in terms of the workload involved in considering and responding to them. However, it seemed the group was trying to obtain more information in order to understand the intended changes, and to inform its submissions on the proposal. The group was persistent in pursuing this information, and in raising its concerns about the consultation process. However, it did seem to have a legitimate interest in the information it was seeking. There was no evidence the requests were made for irrational, mischievous or malicious reasons.

In addition, while the local authority expressed concern about the breadth of the official information request there was no evidence that it had attempted to discuss the request with the group in order to refine it, reduce the scope, or clarify the specific information that was being sought.

The Chief Ombudsman formed the final opinion that the request should not have been refused. The local authority accepted this opinion and said it would work with the group to help them refine their request.

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