

Request for research behind a published statement

Legislation	Official Information Act 1982, s 18(d)
Agency	Ministry of Business, Innovation and Employment
Ombudsman	Dame Beverley Wakem
Case number(s)	377705
Date	March 2015

Requester must be told where they can access the publicly available information

A requester asked the Ministry of Business, Innovation and Employment (MBIE) for the research behind its published statement that *'international research indicates that people are not able to perceive slopes of less than 1 percent'*. MBIE replied that the research was based on a number of publicly available articles and refused the request under section 18(d). The requester complained to the Ombudsman.

The Chief Ombudsman noted that MBIE had not told the requester where he could access the publicly available material. This was not in the spirit of the OIA. While section 18(d) does not explicitly put an onus on an agency to direct the requester to where they may seek the information, it is implicit that an agency should do so.

The Chief Ombudsman asked MBIE to reconsider its decision, and advise the requester what information it had relied on in making the published statement, and where that information could be accessed. She said that if MBIE could not identify the information, it might like to consider a more appropriate refusal ground:

It seems axiomatic that a decision maker should be able to precisely identify the information at issue before they could be justified in deciding that it is publicly available for the purposes of section 18(d).

The complaint was resolved when MBIE reconsidered its decision and advised the requester where he might access the research relied upon.

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