

## Request for draft financial performance analysis

<b>Legislation</b>	Official Information Act 1982, s 9(2)(g)(i)
<b>Agency</b>	Southern District Health Board
<b>Ombudsman</b>	Professor Ron Paterson
<b>Case number(s)</b>	408884
<b>Date</b>	February 2016

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*Draft financial performance analysis prepared by Alma Consulting—s 9(2)(g)(i) did not apply—strong public interest in release*

In July 2015, the Southern District Health Board (the DHB) withheld a March 2015 report prepared by Alma Consulting titled ‘*Southern District Health Board Financial Performance Analysis*’ under section 9(2)(g)(i) of the OIA, and the requester complained to the Ombudsman.

The DHB submitted that ‘*some draft reports do not progress to a final form and/or may not be further developed*’ and that the report at issue was ‘*not finalised and contain[ed] only the preliminary views of the consultant*’.

The DHB said it needed to be free to engage in early and frank discussions with others while reviewing its process as needed, and that disclosure of draft and preliminary reports would ‘*severely curtail*’ its ability to continue to engage in such discussions in the future. It suggested that staff would not engage as freely with consultants or be inhibited from sharing information with them, and that management would be ‘*reluctant to generate any underlying or incomplete documents for discussion*’.

The Ombudsman noted that draft and preparatory material will often be protected, where it is prepared for the purpose of discussion or comment, and premature disclosure would frustrate that process. However, ‘*the status of a document as “draft” is insufficient alone for the purposes of section 9(2)(g)(i)*’.

The draft report in this case was a financial analysis prepared by a consultant on the DHB's forecast and planned figures submitted to the Ministry of Health. The report was some four months old at the time the request was refused, and any limitations on the information and consequent recommendations were noted. Six high-level recommendations were made, based on the analysis of those figures and the consultant's experience in working with other DHBs. There was minimal reference to the involvement of staff or provision of information by officials for the purposes of the report. Although there was reference to a meeting with Directorate Managers, the report did not include any comments or information from those meetings.

The Ombudsman was not persuaded that release of the report would be so likely to prejudice the future free and frank expression of opinions that it was necessary to withhold it. He did not accept that the DHB would be deterred from commissioning draft reports, or that staff would be reluctant to engage with consultants.

With regard to any effect on the future willingness of Alma Consulting to express free and frank opinions to the DHB, the Ombudsman commented that *'this is a commercial service provided by Alma'*. He did not accept that *'the disclosure of figure-based analysis [was] likely to affect the future willingness of Alma to provide such services in future'*.

The Ombudsman also considered that there was a strong public interest *'in availability of a report commissioned by the SDHB to review its financial position, and the requisite recommendations and responses to those findings'*. The report was then 10 months old, and the scale of the DHB's forecast deficit was well known. In the Ombudsman's view, those concerns magnified the public interest of disclosing information such as this draft report.

After considering the Ombudsman's comments, the DHB agreed to release the report, and the complaint was resolved.

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