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| Request for cost of fees paid to a law firm |
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| Legislation Official Information Act 1982, s 9(2)(b)(ii)  Agency Bay of Plenty District Health Board  Ombudsman Leo Donnelly  Case number(s) 457760  Date April 2018 |

*Release of total fees would not unreasonably prejudice third party’s commercial position*

Bay of Plenty District Health Board (DHB) refused to disclose the total fees paid to a law firm in relation to an employment dispute under section 9(2)(b)(ii) because disclosure would unreasonably prejudice the law firm’s commercial position. The requester complained to the Ombudsman.

The DHB argued that release of information about the law firm’s billing structure would provide competitors with an unfair advantage in tendering for the provision of external legal services.

The Ombudsman accepted that the information was commercial information that related to the law firm’s commercial position. He acknowledged that the provision of legal services is a competitive area. Had this case concerned release of the hourly billing rate or fee structure, and/or the number of hours spent in relation to the matter, or any maximum fee that might be incurred in relation to any case, then he may have accepted the DHB’s concern that such information could be used by competitors to obtain a competitive advantage, especially when tendering for the provision of external legal services.

However, the information at issue was the total fees. It would not reveal any details of the successful tender for external legal services, or how the fee structure was determined. Release of this high-level information would not be likely unreasonably to prejudice the law firm’s commercial position. The Ombudsman recommended that the information be disclosed.

*This case note is published under the authority of the* [*Ombudsmen Rules 1989*](http://legislation.govt.nz/regulation/public/1989/0064/latest/DLM129834.html?src=qs)*. 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.*