

## Request for DHB financial reporting data

<b>Legislation</b>	Official Information Act 1982, s 18(d)
<b>Agency</b>	Ministry of Health
<b>Ombudsman</b>	Peter Boshier
<b>Case number(s)</b>	463213
<b>Date</b>	March 2018

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*While release 1 month after refusal would have been ‘soon’ there was no reasonable certainty release would occur by then—agency should reasonably have foreseen delay in obtaining Ministerial input due to election—Section 18(d) did not apply*

On 15 September 2017, the Ministry of Health received a media request for DHB financial reporting data. On the same day, it advised the requester that the data would be published after it was reported to the Minister. It said the reports were published on 19 October the previous year, and a similar timeframe was expected this time. The requester complained to the Ombudsman.

The Ministry later clarified that its refusal was under section 18(d) of the OIA. The release was ultimately delayed until 22 December 2017 due to the change in government.

The Chief Ombudsman accepted that, at the time of the refusal, the Ministry expected to release the information roughly a month later, based on its release of similar information the previous year. A waiting period of a month to release this information appeared to be ‘soon’ in terms of 18(d).

However, the planned publication date was not sufficiently certain. As of 15 September 2017, the Ministry would have been aware that the election was looming, and that, due to the need for Ministerial input, this could impact on the Ministry’s ability to release the information at the time it anticipated. Coalition negotiations in an MMP electoral system are a reasonably foreseeable event, and the flow on effect should have been contemplated.

The Chief Ombudsman acknowledged that unforeseen circumstances can delay plans to make information publicly available, and in that event agencies should contact the requester and explain the reason for the delay and the revised publication date. In this case the requester was not advised that release of the information was delayed, and he was also not eventually told that the information had been made available in December. While this is not a legal requirement, it is a matter of good administrative practice.

The Chief Ombudsman formed the opinion that section 18(d) did not apply because the Ministry could not be reasonably certain the information would be released 'soon'.

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