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| Overseas Investment Office approach to request for information in accordance with OIA guidelines |
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| Legislation Ombudsmen Act 1975, Official Information Act 1982  Agency Overseas Investment Office  Ombudsman Beverley Wakem  Case number(s) A119450 (previously unpublished)  Date 2006 |

*Complaint concerning Overseas Investment Office allegedly acting unlawfully in deciding to release a copy of a letter authored by complainant, in response to an OIA request—Ombudsman disagrees and considers complainant cannot ‘veto’ the release of the letter*

An Official Information Act (OIA) request was made by a lawyer acting for an overseas client, to the Overseas Investment Office (OIO). The Ombudsman was of the view that while it was not open to the lawyer to make a request under section 12 of the OIA on behalf of a client (who was overseas), the lawyer could make a request under section 12 of the OIA on own behalf, in order to provide legal advice to and represent the client. Otherwise the ability of the lawyer to effectively represent the client would be unfairly prejudiced.

In response to the request, a letter written by the complainant was released to the lawyer. The complainant approached the Ombudsman, complaining that there had been no consent to disclose the information, and that the decision to release the information was unreasonable.

The Ombudsman was of the view that the complainant may not ‘veto’ the release of the letter, whether or not the subject of the information consents, the decision on release rests with the organisation which holds the information under section 15 of the OIA. The Ombudsman’s Quarterly Review, Vol 7, issue 1, March 2001 referred to: *‘If the holder of the information believes in good faith, that there is no good reason under the Act to withhold the information, then it is not open to the holder to refuse the request simply because the third party does not consent to disclosure’.*

In this case the Ombudsman considered that if the OIO believes in good faith that there is no good reason to withhold the letter, then it must make the information available.

*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.*